



BOARD OF COUNTY COMMISSIONERS

Planning and Development Department

2725 Judge Fran Jamieson Way
Building A, Room 114
Viera, Florida 32940
(321)633-2070 Phone / (321)633-2074 Fax
<https://www.brevardfl.gov/PlanningDev>

STAFF COMMENTS

21Z00023

Rodney F. McConkey

General Use (GU) to Agricultural Residential (AU)

Tax Account Number: 2312740; 2312741; 2312742; and; 2312743
Parcel I.D.: 23-35-28-01-02-8; 9; 10, and; 11
Location: East side of Golfview Avenue, approximately 500 feet north of the
Intersection of Port Saint John Parkway and I-95 (District 1)
Acreage: 8.36 acres

Planning and Zoning Board: 10/11/2021
Board of County Commissioners: 11/04/2021

Consistency with Land Use Regulations

- Current zoning can be considered under the Future Land Use Designation, Section 62-1255.
- The proposal can be considered under the Future Land Use Designation, Section 62-1255.
- The proposal would maintain acceptable Levels of Service (LOS) (XIII 1.6.C)

	CURRENT	PROPOSED
Zoning	GU	AU
Potential*	1 unit	3 units
Can be Considered under the Future Land Use Map	YES, RES 1:2.5	YES, RES 1:2.5

* Zoning potential for concurrency analysis purposes only, subject to applicable land development regulations.

Background and Purpose of Request

The applicant is seeking a change of zoning classification from GU (General Use) to AU (Agricultural Residential) for the purposes of raising and grazing animals for both livestock and personal use, with agricultural uses to include a barn.

The property consists of four 2.09-acre nonconforming lots in terms of lot area and width under the current GU zoning. Currently, the lots are considered one lot. Rezoning to AU would allow up to three lots where such division would create lots consistent with all other provisions of the comprehensive plan and zoning regulations.” The subject property does not have access to county owned and maintained roads, as required by Section 62-102 for the purposes of obtaining a single-family building permit. Such access issues must be resolved under separate processes prior to obtaining a building permit.

Land Use

The subject property retains the RES 1:2.5 Future Land Use designation (FLU). The existing zoning classification of GU is consistent with the FLU. The proposed zoning classification of AU is consistent with the RES 1:2.5 FLU. Each of the four individual lots of the subject property predates the September 9, 1988 Comprehensive Plan and can be considered as nonconforming to the FLU area requirement.

Applicable Land Use Policies

The Board should evaluate the compatibility of this application within the context of Administrative Policies 2 – 8 of the Future Land Use Element.

FLUE Policy 1.10 - The Residential 1:2.5 land use designation, which establishes the lowest density of all the residential future land use designations, permits a maximum density of up to one (1) unit per 2.5 acres, except as otherwise may be provided for within the Future Land Use Element.

Analysis of Administrative Policy #3 - Compatibility between this site and the existing or proposed land uses in the area.

The property retains RES 1:2.5 FLU. It is located just north of Canaveral Groves and south of the westernmost parts of the developed residential community of Port Saint John in the northwestern quadrant of the I-95/Port Saint John Parkway interchange. The abutting property to the north of the western third of the subject property is vacant and unimproved County park land with Recreation (REC) FLU. The abutting property to the north is a developed single-family subdivision with Residential 4 (RES 4) FLU. The abutting and surrounding properties to the east, south, and west, are all vacant and retain RES 1:2.5 FLU. Lands to the northwest and farther west of this area consist of vacant properties with existing uses of public conservation and parkland with REC and Public Conservation (PUB-CONS) FLU's.

Analysis of Administrative Policy #4 - Character of neighborhood or area.

The surrounding area can be characterized as vacant large lots to the northwest, east, south, and west that is a mixture of public conservation, public recreation, and residentially zoned land with limited road access. The vast majority of these properties are zoned GU with some zoned AU. Across the drainage right-of-way and canal abutting the subject property to the north is the southwestern limits of the Port Saint John community, which consists of Single-Family Residential (RU-1-9) lots, zoned and platted prior to the 1988 Comprehensive Plan and developed in the 1980's and '90's.

The current GU classification allows single-family residences on five acre lots with a minimum width and depth of 300 feet. The minimum house size in GU is 750 square feet.

The proposed AU classification permits single-family residences and agricultural pursuits on 2 ½ acre lots, with a minimum lot width and depth of 150 feet. The minimum house size in AU is 750 square feet. The AU classification also permits commercial crops, packaging, processing, and sale of commodities raised on the premises as provided in Chapter 86, Article IV, the raising/grazing of animals, including unlimited cattle and horses, up to four adult hogs, fowl and beekeeping.

The RU-1-9 classification permits single family residential development on lots of 6,600 square feet (minimum). The minimum house size is 900 square feet.

The GML(P) classification allows parks or recreational land uses for governmental purposes.

There have been no zoning actions within a half-mile of the subject property within the last three years.

Surrounding Area

Abutting the subject property to the north is a 100-foot wide drainage right-of-way and a vacant parcel zoned Government Managed Lands (Parks and Conservation) (GML(P)). The parcel to the east is vacant and zoned AU. To the south is vacant AU, vacant GU, and a drainage pond in the Port Saint John Parkway/Golfview Avenue rights-of-way. To the west is a 15-foot wide parcel zoned GU and owned by Brevard County which is adjacent to the Golfview Avenue right-of-way.

Environmental Constraints

Summary of Mapped Resources and Noteworthy Land Use Issues:

- Wetlands/Hydric Soils
- Aquifer Recharge Soils
- Protected Species
- Land Clearings and Landscape Requirements

The subject parcel contains mapped SJRWMD wetlands and hydric soils; indicators that wetlands may be present on the property. A wetland determination will be required prior to any land clearing activities, site plan design or building permit submittal. Any permitted wetland impacts must meet the requirements of Section 62-3694(e) including avoidance of impacts, and will require mitigation in accordance with Section 62-3696. The applicant is encouraged to contact NRM at (321) 633-2016.

Information available to NRM indicates that land clearing activities may have occurred between 2016 and 2017, and again between 2017 and 2018. The discovery of unpermitted land clearing activities or wetland impacts may result in enforcement action.

Preliminary Concurrency

The closest concurrency management segment to the subject property is Golfview Avenue, between Port Saint John Parkway and Fay Boulevard, which has a Maximum Acceptable Volume (MAV) of 15,600 trips per day, a Level of Service (LOS) of E, and currently operates at 35.78% of capacity daily. The maximum development potential from the proposed rezoning does increase the percentage of MAV utilization by 0.18%. The corridor is anticipated to continue to operate at 35.96% of capacity daily. The proposal is not anticipated to create a deficiency in LOS.

No school concurrency information has been provided as the development potential of this site falls below the minimum number of new residential lots that would require a formal review.

The parcel is not serviced by Brevard County sewer. The closest available sewer is approximately 3,000 feet northeast of the subject property.

The parcel is not serviced by Brevard County or City of Cocoa water. The closest municipal water service is located approximately 200 feet north of the subject property.

For Board Consideration

The Board may wish to consider whether this request for AU zoning is consistent and compatible with the properties in the surrounding area. In addition, the Board may wish to consider the potential impacts of Agritourism, or any of the more intense agricultural uses permitted in AU, on surrounding properties.

NATURAL RESOURCES MANAGEMENT DEPARTMENT
Zoning Review & Summary
Item #21Z00023

Applicant: Rodney McConkey

Zoning Request: GU to AU

Note: Applicant wants farm animals, agricultural use, barn, and single-family home

P&Z Hearing Date: 10/11/21; **BCC Hearing Date:** 11/04/21

Tax ID Nos: 2312740, 2312741, 2312742 & 2312473

- This is a preliminary review based on best available data maps reviewed by the Natural Resources Management Department (NRM) and does not include a site inspection to verify the accuracy of the mapped information.
- In that the rezoning process is not the appropriate venue for site plan review, specific site designs submitted with the rezoning request will be deemed conceptual. Board comments relative to specific site design do not provide vested rights or waivers from Federal, State or County regulations.
- **This review does not guarantee whether or not the proposed use, specific site design, or development of the property can be permitted under current Federal, State, or County Regulations.**

Summary of Mapped Resources and Noteworthy Land Use Issues:

- Wetlands/Hydric Soils
- Aquifer Recharge Soils
- Protected Species
- Land Clearings and Landscape Requirements

The subject parcel contains mapped SJRWMD wetlands and hydric soils; indicators that wetlands may be present on the property. A wetland determination will be required prior to any land clearing activities, site plan design or building permit submittal. Any permitted wetland impacts must meet the requirements of Section 62-3694(e) including avoidance of impacts, and will require mitigation in accordance with Section 62-3696. The applicant is encouraged to contact NRM at (321) 633-2016.

Information available to NRM indicates that land clearing activities may have occurred between 2016 and 2017, and again between 2017 and 2018. The discovery of unpermitted land clearing activities or wetland impacts may result in enforcement action.

Land Use Comments:

Wetlands/Hydric soils

The subject parcel contains mapped SJRWMD wetlands, and hydric soils (Basinger sand and Anclote sand) as shown on the SJRWMD Florida Land Use & Cover Codes, and USDA Soil Conservation Service Soils Survey maps, respectively; indicators that wetlands may be present on the property. A wetland determination/delineation will be required prior to any land clearing activities, site plan design, or building permit submittal. Information available to NRM indicates that land clearing activities resulting in potential impacts to wetlands may have occurred when portion of the site was

cleared between 2016 and 2017, and again between 2017 and 2018. The discovery of unpermitted wetland impacts may result in enforcement action.

Pursuant to the Florida Agricultural Lands and Practices Act (Chapter 163.3162(4), Florida Statutes), any activity of a Bona Fide Agricultural Use on land classified as agricultural land pursuant to Section 193.461, Florida Statute is exempt. The Brevard County Property Appraiser's Office establishes Bona Fide Agricultural land classification, and should be contacted at 321-264-5393 for specific requirements to meet this classification.

Section 62-3694 states that non-bona fide agricultural and forestry operations utilizing best management practices are permitted in wetlands provided they do not result in permanent degradation or destruction of wetlands, or adversely affect the functions of the wetlands. Any permitted wetland impacts must meet the requirements of Section 62-3694(e) including avoidance of impacts, and will require mitigation in accordance with Section 62-3696. The applicant is encouraged to contact NRM at (321) 633-2016 prior to any site plan design.

Aquifer Recharge Soils

Basinger sand may also function as an aquifer recharge soil. The applicant is hereby notified of the development and impervious restrictions within Conservation Element Policy 10.2 and the Aquifer Protection Ordinance.

Protected Species

Information available to NRM indicates that federally and/or state protected species may be present on the property. Prior to any plan, permit submittal, or development activity, including land clearing, the applicant should obtain any necessary permits or clearance letters from the Florida Fish and Wildlife Conservation Commission and/or U.S. Fish and Wildlife Service, as applicable.

Protected and Specimen Trees

Aerials indicate that Protected (greater than or equal to 10 inches in diameter) and Specimen Trees (greater than or equal to 24 inches in diameter) may exist on subject property. Information available to NRM indicates that unpermitted land clearing activities may have occurred. The discovery of unpermitted land clearing activities may result in enforcement action. Per Brevard County Landscaping, Land Clearing and Tree Protection ordinance, Section 62-4331(3), the purpose and intent of the ordinance is to encourage the protection of Heritage Specimen trees. The applicant is advised to refer to Article XIII, Division 2, entitled Land Clearing, Landscaping, and Tree Protection, for specific requirements for tree preservation and canopy coverage requirements. Land clearing is not permitted without prior authorization by NRM.